## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

WEST AMERICAN INSURANCE COMPANY,	)
Plaintiff,	)
VS.	) Case No. 07-0566-CV-W-ODS
RLI INSURANCE COMPANY, et al.,	) )
Defendants.	)

## ORDER GRANTNG JUDGMENT IN FAVOR OF COUNTERCLAIM DEFENDANT

On October 8, 2009, this Court ruled that West American could not be held liable to RLI for bad faith if West American protected its insured's assets with a binding high/low arbitration agreement. Since the question whether the high/low agreement existed was a disputed issue of fact, the Court concluded that summary judgment could not be entered in favor of West American on RLI's counterclaim for bad faith.

On December 28, 2009, RLI stipulated to the existence of a binding high/low arbitration agreement "that specified that the 'high' number was all sums of money due and owing under any applicable policies of insurance." (Doc. # 181). In light of this stipulation, there is no longer a disputed issue of fact for trial, and West American is entitled to judgment in its favor on RLI's counterclaim for bad faith. The pretrial conference scheduled for February 16, 2010, and the trial scheduled for March 8, 2010, are canceled.

IT IS SO ORDERED.

/s/ <u>Ortrie D. Smith</u>
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT

DATE: December 30, 2009